

Estate of Roger Owensby vs. City of Cincinnati  
October 17, 2003

PATRICK E. CATON

UNITED STATES DISTRICT COURT

1

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

-----  
ESTATE OF ROGER D. :  
OWENSBY JR., et al., :  
 :  
Plaintiffs, :  
vs. : Case No. 01-CV-769  
 : (Judge S. A. Spiegel)  
CITY OF CINCINNATI, :  
et al., :  
 :  
Defendants. :  
-----

Videotaped deposition of PATRICK EDMUND  
CATON, a defendant herein, called by the plaintiffs  
for cross-examination, pursuant to the Federal Rules  
of Civil Procedure, taken before me, Wendy Davies  
Welsh, a Registered Diplomate Reporter and Notary  
Public in and for the State of Ohio, at the offices  
of Helmer, Martins & Morgan Co. LPA, 1900 Fourth &  
Walnut Centre, 105 East Fourth Street, Cincinnati,  
Ohio, on Friday, October 17, 2003, at a.m.

Estate of Roger Owensby vs. City of Cinti.  
October 17, 2003

PATRICK E. CATON

1 APPEARANCES:

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2 On behalf of the Plaintiffs:

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16 On behalf of the Defendants City of Golf Manor,  
17 Stephen Tilley, Roby Heiland and Chris  
18 Campbell:

19 Lynne Marie Longtin, Esq.  
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On behalf of Defendants City of Cincinnati,  
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Assistant City Solicitor  
and  
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1 S T I P U L A T I O N S

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2 It is stipulated by and among counsel for the  
3 respective parties that the deposition of PATRICK  
4 EDMUND CATON, a defendant herein, called by the  
5 plaintiffs for cross-examination, pursuant to the  
6 Federal Rules of Civil Procedure, may be taken at  
7 this time by the notary; that said deposition may be  
8 reduced to writing in stenotype by the notary, whose  
9 notes may then be transcribed out of the presence of  
10 the witness; and that proof of the official  
11 character and qualifications of the notary is  
12 expressly waived.

13 - - -

1 APPEARANCES (Continued):

Page 3

2 On behalf of the Defendants Robert B. Jorg,  
3 Patrick Caton, Jason Hodge, Victor Spellien and  
4 Darren Sellers:

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11 Also present:

12 Richard W. Grubb, Videographer

13 Lisa Damstrom, Law Clerk  
14 Helmer, Martins & Morgan Co., L.P.A.

15 Wendy M. Weller, Paralegal  
16 Buckley, King & Bluso

17 Mr. Roger Owensby

18 Mrs. Brenda Owensby

19 Mr. Shawn Owensby

20 Victor N. Spellien

1 I N D E X

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1 Q. What do you recall?  
2 A. It was a matter of a Terry stop with  
3 regard to a drug investigation. Mr. Smiley was  
4 asked to be seated on the ground. He refused. He  
5 was told that he'd be placed under arrest if he  
6 didn't sit down on the ground. He continued to  
7 refuse. Officer George walked up to make contact  
8 with him, at which time Mr. Smiley punched Officer  
9 George in the face.  
10 Q. What happened after that?  
11 A. A struggle ensued. Mr. Smiley was placed  
12 in custody and arrested and transported to 2020  
13 Juvenile Hall.  
14 Q. I'm sorry. I missed the last part.  
15 Transported to?  
16 A. 2020 Juvenile Hall.  
17 Q. How old was Mr. Smiley?  
18 A. I think at the time he was about 16 or 17  
19 years of age.  
20 Q. Where did this take place?  
21 A. In Corryville.  
22 Q. Do you know the streets or the location in  
23 Corryville?  
24 A. I believe it's the Van Street lot

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1 behind -- it's a group of businesses just east of on  
2 Short Vine.  
3 Q. Were you involved in the struggle that  
4 ensued?  
5 A. I was.  
6 Q. And what, if anything, did you do in the  
7 struggle?  
8 A. I aided in handcuffing and I -- I think I  
9 Maced him during the struggle.  
10 Q. Did you strike him?  
11 A. No.  
12 Q. Was Mr. Smiley -- other than the Macing,  
13 was he physically injured as a result of the arrest?  
14 A. Not that I recall.  
15 Q. Was he bleeding?  
16 A. Not that I recall.  
17 Q. Was there a Cincinnati Police Department  
18 disciplinary proceeding as a result of this  
19 incident?  
20 A. No, there was not.  
21 Q. Is Mr. Smiley an African American?  
22 A. Yes, he is.  
23 Q. Other than the deposition on Mr. Smiley's  
24 case against the City of Cincinnati, have you had

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1 your deposition taken in any other case?  
2 A. No, I have not.  
3 Q. As you've probably heard me say with the  
4 other people that have been deposed, I will be  
5 asking you questions, such as we've been doing, and  
6 if you have any questions or you haven't heard the  
7 question, ask me to repeat or to clarify the  
8 question. Do you understand that?  
9 A. I understand.  
10 Q. And if you give an answer to the question,  
11 I'm going to assume that you heard the question and  
12 understood the question.  
13 A. I understand.  
14 Q. Is that fair?  
15 A. That's fair.  
16 Q. All right. Are you under any physical or  
17 mental impairment that would cause you not to  
18 understand my questions or give truthful answers to  
19 my questions?  
20 A. No, I am not.  
21 Q. Taking any medication?  
22 A. No, I'm not.  
23 Q. When did you first realize that Roger  
24 Owensby Jr. was dead?

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1 A. When Sergeant Julie Shearer got into the  
2 cruiser with me to transport me to CIS, I asked her  
3 if this guy was going to make it. And her response  
4 was, "I believe he's already two seven," indicating  
5 that he had passed.  
6 Q. You assisted in removing Mr. Owensby from  
7 the Golf Manor cruiser, correct?  
8 A. That is correct.  
9 Q. And as a result of that, you and Officer  
10 Hasse attempted to resuscitate Mr. Owensby, using  
11 CPR?  
12 A. That is correct.  
13 Q. At the time that you and Officer Hasse  
14 were employing CPR, Mr. Owensby was still  
15 handcuffed, correct?  
16 A. That is correct.  
17 Q. And you did not remove the handcuffs at  
18 that time?  
19 A. No, not until Fire arrived.  
20 Q. And you took or attempted to take his  
21 pulse on his wrist; is that right?  
22 A. No. I attempted to take his pulse at his  
23 neck.  
24 Q. At his neck?

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1 A. That is correct.  
2 Q. And was there a pulse?  
3 A. I couldn't find one.  
4 Q. Did Officer Hasse try to take his pulse at  
5 his wrist?  
6 A. I -- I don't think he could. No, I would  
7 say no, because his hands were underneath him at --  
8 at that point. Officer Hasse was also -- had to use  
9 both hands to use the -- the rescue breathing mask  
10 that was supplied by a Golf Manor officer.  
11 Q. Did Officer Hasse say anything to you  
12 concerning the condition of Mr. Owensby at that  
13 time?  
14 A. Well, while we were giving him CPR, like I  
15 said, his hands had to be on the mask in order to  
16 employ it. And I basically did all the manipulation  
17 of Mr. Owensby to get him in the proper position,  
18 and the chest compressions. During the -- and --  
19 and periodically taking his pulse through the  
20 incident.  
21 At one point Officer Hasse, who is EMT  
22 trained, said -- asked me if air was going into his  
23 lungs or going into his stomach.  
24 And I said, "How do you tell?"

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1 And he says, "Is his chest rising and  
2 falling or is his stomach rising and falling?" And  
3 when he gave two rescue breaths, I -- I observed his  
4 stomach rising and falling.  
5 He then said, "That means something's  
6 blocking his throat," at which point I repositioned  
7 Mr. Owensby's head with a chin tilt and attempted to  
8 physically clear his airway. At that point I  
9 couldn't find anything, and we began the rescue  
10 breathing and CPR again.  
11 Q. When you say "couldn't find anything,"  
12 there was no obstruction as far as his --  
13 A. I can only reach as deep as the back of  
14 his mouth.  
15 Q. Right. And you -- you found no  
16 obstruction?  
17 A. I -- I couldn't find an obstruction at --  
18 from -- at that point.  
19 Q. Had you --  
20 A. Officer --  
21 Q. I'm sorry.  
22 A. I'm sorry. I was going to continue.  
23 Officer Hasse believed that there was something  
24 obstructing his airway at that point and called.

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1 When Fire arrived, he immediately -- I -- I can't  
2 remember the technical term he used. It was -- he  
3 referenced, "We need the suction device off the  
4 truck to clear his airway."  
5 Q. Had you received training as a Cincinnati  
6 police officer in conducting CPR in circumstances  
7 such as this?  
8 A. Once.  
9 Q. When?  
10 A. Received about four hours of training at  
11 the academy in 1997.  
12 Q. No follow-up training?  
13 A. No.  
14 Q. Had anyone ever instructed you that in  
15 order to do CPR, the handcuffs had to be removed  
16 from the suspect so that his arms were not behind  
17 his back?  
18 A. No. What I was instructed is that his  
19 back and shoulders must be flat on the ground in  
20 order to do chest -- chest compressions correctly.  
21 And I believed at that time they were.  
22 Q. What has to be flat on the ground?  
23 A. His back -- his back and shoulders.  
24 Q. Now, when the fire rescue unit arrived --

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1 well, let me ask you, where were they from?  
2 A. I don't know what fire unit responded.  
3 Q. Okay. In any event, when they arrived,  
4 one of the first things that you and Officer Hasse  
5 were told to do was to remove the handcuffs from Mr.  
6 Owensby, correct?  
7 A. That's correct.  
8 Q. Let me ask you, when did you first realize  
9 that Roger Owensby was injured?  
10 A. What -- what kind of injury are we talking  
11 about?  
12 Q. Any injury that requires some medical  
13 attention.  
14 A. Medical assistance. Okay. When Sergeant  
15 Watts and I approached the cruiser afterwards to get  
16 information from Mr. Owensby, Sergeant Watts opened  
17 the cruiser door and made a statement to the effect  
18 of, Pat, I don't think he's breathing.  
19 And that's when I looked in, and he was in  
20 a real awkward position at that point. And I looked  
21 up, saw Officer Hasse standing on the other side of  
22 the Golf Manor cruiser at that point. And realizing  
23 that he's EMT trained, I said, "Have you got any  
24 rubber gloves?"

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1 He said, "Yeah."  
2 We gloved up, and Sergeant Watts said,  
3 "Get him out of the car." And Officer Hasse and I  
4 removed him from the car.  
5 Q. Is that the first time you realized that  
6 Roger Owensby was injured?  
7 A. That's correct.  
8 Q. Well, you knew before you placed him in  
9 the car that he had been Maced, right?  
10 A. That's correct.  
11 Q. And isn't it true that the standard for  
12 care of someone who has been Maced is to provide  
13 them with water and fresh air?  
14 A. That is correct.  
15 Q. And that was not provided?  
16 A. I wouldn't consider that an injury.  
17 Q. What do you consider someone having been  
18 Maced?  
19 A. An irri-- it's an irritation. It's a  
20 device used to irritate and cause pain. It doesn't  
21 cause injury.  
22 Q. Okay. Well, in any event, you knew that  
23 he had been Maced, you knew that the standards were  
24 to provide water and fresh air, and you knew that

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1 water and fresh air were not provided, correct?  
2 A. Well, it -- they're supposed to be  
3 provided after the scene is stabilized. And the  
4 scene, in my opinion, was never stabilized.  
5 Q. At the time you placed Roger Owensby in  
6 the back seat of the Golf Manor cruiser with the  
7 windows up, he had not been provided with water or  
8 fresh air, correct?  
9 A. I thought there was plenty of fresh air  
10 inside the cruiser.  
11 Q. Had you provided him with water?  
12 A. No, I had not.  
13 Q. And when you placed him or walked him  
14 toward the cruiser, you knew that he had several  
15 lacerations on his face?  
16 A. No, I did not.  
17 Q. How far away were you from Mr. Owensby's  
18 face as you escorted him to the cruiser?  
19 A. I would put us at shoulder distance -- we  
20 were shoulder to shoulder essentially, as I walked  
21 him towards the cruiser.  
22 Q. And while you were doing this, as I  
23 understand your prior testimony, you were commanding  
24 him to put his feet down, right?

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1 A. That's correct.  
2 Q. And when you were doing that, were you  
3 looking at him?  
4 A. At his feet.  
5 Q. Not at his face?  
6 A. No.  
7 Q. When you put him into the cruiser, as I  
8 understand it, Officer Sellers put him in the  
9 cruiser from the rear passenger door and you went  
10 around to the driver passenger door and crawled in,  
11 grabbed him by the shoulders and pulled him toward  
12 you; is that right?  
13 A. Well, that's a much shortened version of  
14 it, but that's essentially correct.  
15 Q. And when you pulled Mr. Owensby into the  
16 cruiser toward you, weren't you face to face with  
17 him?  
18 A. No, I wouldn't say face to face. My head  
19 was ducked and it was very dark inside the cruiser.  
20 Mr. Owensby was a little more than a shadow to me at  
21 that point.  
22 Q. The cruiser was parked next to a gas  
23 island?  
24 A. That's correct.

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1 Q. And the gas island is illuminated by six  
2 halogen lamps, correct?  
3 A. That is correct.  
4 Q. And the cruiser itself had its lights on?  
5 A. I don't know if the lights were on or off.  
6 They weren't -- the interior lights were not on.  
7 Q. There was no dome light on; is that what  
8 you're saying?  
9 A. That's correct.  
10 Q. But there were lights from the -- from the  
11 top of the car that were on?  
12 A. I don't recall if there were lights on or  
13 off on top of the cruiser.  
14 MR. MARTINS: Let me have the tape.  
15 Q. I'm going to show you -- I'm going to show  
16 you, sir, what has previously been marked as  
17 Exhibit 20. This is the video of -- from Officer  
18 Spellen's car.  
19 (Videotaped played.)  
20 Q. I'm pausing it here. You can see the gas  
21 island with the halogen lamps at the top, correct?  
22 A. That's correct, about 20 feet away.  
23 Q. Well, we're not up to the car yet.  
24 A. No.



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1 looked at his ID and the conversation was along the  
2 lines of I see you live in Reading; what brings you  
3 down here?  
4 And he said, "I bought -- this is where I  
5 come to get my marijuana. And I'll show you where  
6 if you'll let me go with a" -- what's referred to as  
7 a weed ticket.  
8 **Q. What -- clarify, what's a weed ticket?**  
9 A. It's a \$100 payout citation for a minor  
10 misdemeanor, marijuana possession.  
11 **Q. Which is what he would have received**  
12 **anyway?**  
13 A. Oh, I -- I'm not -- you're going to have  
14 to speak with Officer Hasse with regard to the  
15 charges. I think Officer Hasse originally also  
16 wanted to charge him with criminal trespassing, but  
17 I'm not sure.  
18 **Q. Okay.**  
19 A. I'm not sure.  
20 **Q. All right. Please continue.**  
21 A. So he was willing to show us where he'd  
22 make a buy. I guess the -- the idea was we wanted  
23 to see if police officers could make a buy, and  
24 proceed with possibly a trafficking investigation,

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1 which was essentially out of my league. Uniformed  
2 officers have a real difficult time walking up to a  
3 drug house and trying buying drugs.  
4 So I -- that's when I used my cell phone  
5 to call our Mini-Tac Unit, and I spoke with Officer  
6 Lawson, told him what we had. He spoke with his  
7 partner, Officer Hodge. They indicated they were  
8 interested in interviewing this suspect, they would  
9 come up and -- they would come up and meet us and  
10 talk to him.  
11 **Q. Let me ask you, is there a reason, a**  
12 **tactical reason or otherwise, why you made that call**  
13 **on your private phone as opposed to using the --**  
14 **either the mike or the MDT in your car?**  
15 A. Well, it was a fairly extensive  
16 conversation, and you want to use short  
17 transmissions over your radio. You don't want to  
18 tie up the radio with conversation --  
19 The Mini-Tac Unit doesn't have an MDT,  
20 because they are undercover officers and they work  
21 in undercover cars. It was just more convenient  
22 just to give them a call, District 4, for -- to  
23 expedite the matter.  
24 **Q. All right. Continue.**

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1 A. At that point Off-- I -- I told what  
2 Offic-- Officer Jorg and Officer Sellers -- I  
3 believe Officer Hunter had arrived at that -- at  
4 that point also.  
5 I said, "This is what we got. The  
6 Mini-Tac Unit's interested in talking to these --  
7 this guy. I guess we've just got to stand by and  
8 wait for the continuing investigation."  
9 At that point or at some point --  
10 **Q. Sorry. While you're waiting, had Officer**  
11 **Hasse -- did you already hand him the NTA book?**  
12 A. Yes. He already had it.  
13 **Q. He had that. And had he -- if you recall,**  
14 **had he already written out the citation?**  
15 A. I don't know.  
16 **Q. Okay. Sorry. Continue.**  
17 A. It's at that point Officer Hunter pointed  
18 at an individual crossing Seymour Avenue, I'd say  
19 about 50 yards away, roughly up here on the map.  
20 **Q. Would you draw on the map a line**  
21 **indicating the path of the person across Seymour**  
22 **Avenue, and putting the letter A next to that.**  
23 A. Again, I would have estimated the distance  
24 at 50 yards. On this map I don't know what 50 yards

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1 would be, so...  
2 **Q. All right. But it's approximately half a**  
3 **football field?**  
4 A. Approximately half a football field.  
5 **Q. And where were you at this time?**  
6 A. Basically here (indicating).  
7 **Q. Okay. Would you mark that with a C for**  
8 **Caton.**  
9 A. (Witness complies.)  
10 **Q. Thank you. So you saw the person going**  
11 **across the street. Did you think anything of it?**  
12 A. Well, he was -- to me he was little bit  
13 more than a shadow. Again, it -- it -- it was dark  
14 out there and the only light that I could see was  
15 a -- a passing vehicle. And I got little more than  
16 a silhouette of the individual.  
17 I -- I could see that it was a medium-  
18 sized man, I suspected, but that -- beyond that, it  
19 wasn't until he got into the well-lit area of the  
20 Sunoco lot that I could make out any details, and at  
21 that point it really wasn't many more details.  
22 Now, Officer Hunter had said, when he  
23 commented, when he pointed at it -- at -- at -- at  
24 him, he said, "I think that's LA."

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<p style="text-align: right;">Page 138</p> <p>1 you told him, We kicked his ass, or I guess his 2 version is, We beat the shit out of him. One of 3 those two statements was made? 4 A. That's right. 5 Q. Correct? After that statement was made, 6 what happened? 7 A. I got in my car and we returned back to 8 the scene, as you see me in the videotape rolling up 9 on the scene. 10 Q. Okay. Officer Hasse also gets in his car 11 and brings his car over? 12 A. That's correct. 13 Q. What happens after that? 14 A. Officer Hodge approaches me and asks me if 15 I had any alcohol rub in the cruiser or in my gear. 16 And I said, "Why?" 17 And he said, "Because Blaine has some 18 blood on him." 19 And I said, is he hurt, or something to 20 that effect. 21 And he said, "No, I -- we're not sure 22 where the blood came from." 23 And when he asked me for the alcohol rub, 24 that -- that's consistent with a ground struggle.</p>	<p style="text-align: right;">Page 140</p> <p>1 And I said, "He said his name was Roger 2 something, but I can't recall." 3 He said, "Well, let's begin there." And 4 that's when we approached the Golf Manor cruiser. 5 And he looked in the passenger -- or the 6 driver's side rear door and realized that he wasn't 7 moving, and he opened -- he opened the door and 8 started to lean in. 9 And I stopped him. I said, "Sarge, be 10 careful. He might be playing possum," indicating 11 from experience when you have a violent prisoner 12 sometimes they'll try and lure you back in the car 13 so they can hurt you. 14 And he said "No, Pat, I don't think that 15 guy's breathing." And we shined the flashlight in 16 and we realized he was actually not breathing. And 17 that's when we began the process of getting him out 18 of the car. 19 Q. This is from the driver's side? 20 A. The driver's side. 21 Q. So his head would have been toward you and 22 his feet would have been away from you? 23 A. That's correct. 24 Q. Did -- okay. What -- what happened next?</p>
<p style="text-align: right;">Page 139</p> <p>1 You know, we quite fre-- I had scuffs on my hands, 2 and it was used to clean hands. I -- you see me go 3 back to the trunk of my car where I normally carry 4 it, open it up and check my seat out bag, which 5 is -- 6 Q. I'm sorry? 7 A. The seat out bag. It's the gear bag that 8 police officers carry with all their equipment in 9 it. 10 And I didn't have any left, and that's 11 when I guess Officer Hodge went on to try to secure 12 some from some other officer. 13 At that point I realized Sergeant Watts 14 was on scene and I approached Sergeant Watts. This 15 would be after Victor had just driven away, Officer 16 Spellman had just driven away. And he was standing 17 on the opposite side of the Golf Manor car, on the 18 driver's side of the Golf Manor car. 19 And I walked up to him and I said, "Hey, 20 Sarge, I got to tell you what happened here." And I 21 began to tell him, "We approached this" -- tell the 22 story in chronological order. And he stopped me 23 after a few seconds and said, "Start at the 24 beginning. What's this guy's name?"</p>	<p style="text-align: right;">Page 141</p> <p>1 A. That's where we began today. That's when 2 I looked up. And the first person I saw was Officer 3 Hasse, where I -- I had known from talking to him 4 that he -- he was an EMT before he was a cop. 5 I said, "Do you have any rubber gloves?" 6 He said, "Yeah." 7 "You got an extra pair?" 8 "Yes." 9 "Glove up. Let's get this guy out of the 10 back seat of the car," and then we began the CPR 11 procedures on him. 12 Q. When you got him out of the back seat of 13 the car, did you take him out from the driver's side 14 or from the passenger's side? 15 A. From the passenger's. 16 Q. So you came around, opened the door? 17 A. Right. 18 Q. How was Mr. Owensby situated in the back 19 seat of the car? 20 A. His position had changed from when I saw 21 it last. When I came back and saw it now, he had 22 been -- he was rolled over on his back and his head 23 was pinned at like an angle between -- I want to say 24 between his shoulder and the back of the seat.</p>

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1 Q. When you left him, he was on his left  
2 shoulder?

3 A. He was face down essentially, with his  
4 head turned towards the front seat of the cruiser,  
5 with one foot on the floor and one foot underneath  
6 him.

7 And I'm -- I'm very specific about that,  
8 because I truly thought all he would have to do is  
9 put his left foot down on the floor and rock up into  
10 a seated position. That's why I exited the car as  
11 quickly as I could.

12 Q. So he -- excuse me. He was -- when you  
13 first put him in the car, he was -- both of his  
14 shoulders were down, he was face down with his face  
15 to the right?

16 A. Essentially like this (demonstrating) with  
17 his -- he would have been looking over his right  
18 shoulder towards the front -- out the front of the  
19 car.

20 Q. All right. And when you opened the door  
21 with Sergeant Watts, how was he positioned?

22 A. He was rolled over on his back with his  
23 head -- would have been on -- like his ear against  
24 his right shoulder, with his head pressed into the

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1 back of the seat.

2 Q. So his -- was his right shoulder against  
3 the back seat?

4 A. Yes.

5 Q. And his head was pressed toward the right?

6 A. It was off to the right, with the --  
7 which -- the top of his head against the back of the  
8 seat.

9 Q. Was the rest of his body -- was he laying  
10 on his back at that time or was his body still --

11 A. I would say his shoulders --

12 Q. -- kind of twisted around?

13 A. It -- it -- it -- it was kind of twisted  
14 around. I would say his shoulders were now flat  
15 against the back of the seat, with his head twisted  
16 and his -- and his -- his hands were underneath him.

17 Q. I think you said when you placed him in  
18 the car, his right foot was on the floor?

19 A. Correct.

20 Q. Was his right foot still on the floor, if  
21 you -- if you recall?

22 A. I don't -- I don't know.

23 Q. And then at that point you began CPR with  
24 Officer Hasse, correct?

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1 A. That's correct.

2 Q. How much time elapsed before the fire  
3 rescue unit showed up?

4 A. I don't know.

5 Q. When the fire rescue unit shows up, they  
6 take over performing CPR, correct?

7 A. Yes.

8 Q. Were you the person that took off the  
9 handcuffs?

10 A. Yes, I was.

11 Q. After you removed the handcuffs on Mr.  
12 Owensby, did you have any other contact with Mr.  
13 Owensby?

14 A. No, I did not.

15 Q. Where did you go after removing the  
16 handcuffs?

17 A. Well, I -- I stayed in the immediate  
18 vicinity, at that immediate -- immediate vicinity,  
19 right around -- like I said, we witne-- I did  
20 witness the material come out of his mouth.

21 And the supervisors, who took charge of  
22 the scene by that point, were basically realizing  
23 that this was becoming a critical incident. And the  
24 procedure with regard to critical incidents is to

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1 separate all the officers and witnesses concerned.

2 So I was directed to -- basically Sarge  
3 said, "Go ahead and climb in that cruiser. Just  
4 wait until -- don't talk to anybody. Just wait  
5 until we come -- come get you." And that cruiser,  
6 it turned out to be Sergeant Julie Shearer's.

7 Q. Do you know how far the cruiser was from  
8 where Mr. Owensby was?

9 A. The one that I was in?

10 Q. Yes.

11 A. As I recall, her cruiser was parked along  
12 the side here of the store -- the Sunoco lot, and  
13 Mr. Owensby was -- was somewhere in this vicinity  
14 here where the fire engine was -- where the crew was  
15 working on him (indicating).

16 Q. Draw a rectangle for what you -- where you  
17 recall Sergeant Shearer's car being, on, I guess --  
18 What exhibit is that, 32?

19 A. 31.

20 Q. 31. Okay. We'll just make another copy  
21 of it.

22 And put, in the rectangle, SH for Shearer.

23 A. (Witness complies.)

24 Q. And then if you would draw a circle with



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17:00:39 1 MR. HARDIN: Caton.

17:00:39 2 VIDEOGRAPHER: Sorry. Mr. Caton, you have  
17:00:39 3 a right to review this videotape deposition  
17:00:39 4 prior to its being shown to a court or jury.  
17:00:39 5 Will you waive that right?

17:00:39 6 THE WITNESS: No.

17:00:40 7 VIDEOGRAPHER: We're off the record. The  
17:00:42 8 time showing is 5:04 p.m.

17:00:42 9 MR. MARTINS: I take it you also want  
17:00:49 10 signature on the deposition?

17:00:51 11 MR. HARDIN: Yes. Yes.

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(Deposition concluded.)

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PATRICK EDMUND CATON